WILLS—REVOCATION—WILL NOT REVOKED BY WRITING ACROSS ITS FACE, "WILL REVOKED."—Testator attempted to revoke his will by writing vertically across its face, "Will revoked, Geo. W. Parsons," and "This will is hereby revoked. Geo. W. Parsons." A State statute provided two methods of revoking wills: First, that a will shall "not be revoked or altered, otherwise than by some other will in writing, or some other writing of the testator, declaring such revocation or alteration, and executed with the same formalities with which the will itself was required by law to be executed; * * * or second, "unless such will be torn, burned, canceled, obliterated or destroyed, with the intent and for the purpose of revoking the same, by the testator, * * *." There was no blurring out of the context of the will by the testator's writing. *Held*, will not revoked. *In re Parson's Estate*, 191 N. Y. S. 910 (1922).

In the United States generally there exist statutes similar to the New York statute providing for the revocation of wills. There appear to be but few adjudicated cases practically identical with the instant case. In one case the testator wrote across each sentence disposing of property the following words with a red pencil, "Null and void. Daniel Heatley Barnes Oct 30th 1910." and it was held that the will was revoked. *In re Barnes' Will*, 136 N. Y. S. 940, 76 Misc. Rep. 382 (1912). This case does not appear to have been called to the attention of the court in the instant case as the court in its opinion makes no reference to such holding. See also *Evans' Appeal*, 58 Pa. St. 238 (1868).

Most of the cases of attempted revocation have been where the unwitnessed writing occurs in the blank marginal spaces or on the back of the will. There being no part of the writing subscribed over the face of the will itself. All the authorities agree that such unwitnessed writing does not constitute revocation under the first part of the statute requiring the "writing of the testator * * * executed with the same formalities with which the will itself was required by law to be executed." *In re Ladd's Will*, 60 Wis. 187, 18 N. W. 734, 50 Am. Rep. 355 (1884); *In re Aker's Will*, 77 N. Y. S. 643, 74 App. Div. 161, 11 N. Y. Ann. Cas. 242, affirmed 173 N. Y. 620, 66 N. E. 1103 (1903).

The weight of authority is that such unwitnessed writing in the blank marginal spaces or on the back of the will does not constitute revocation under the second part of the statute permitting revocation by "canceling." *In re Ladd's Will, supra; In re Aker's Will, supra; In re Miller's Estate*, 100 N. Y. S. 344, 50 Misc. Rep. 383 (1906). But for *contra* holdings see, *Witter* v. *Mott*, 2 Conn. 67 (1816); *Warner* v. *Warner's Estate*, 37 Vt. 356 (1864). For able criticisms of the last case see, *In re Ladd's Will, supra;* 1 REDFIELD ON WILLS (4th Ed.) 318.

The weight of authority is that to constitute revocation by cancellation there need be no blurring out of the actual context of the will. Where the testatrix drew a line lengthwise through her name, and an upright line through each of the words thereof; at the same time declaring to persons present that she wished them to witness that she destroyed the will it was held that this constituted revocation. *In re Glass' Estate*, 14 Colo. App. 377, 60 Pac. 186 (1900). See GARDNER ON WILLS (2nd Ed.) 229 for general rule.

Where an ink line was drawn on a will through a legacy, it furnished

additional proof of the intention to revoke the testament. *Succession of Batchelor*, 48 La. Ann. 378, 19 So. 283 (1896).

On reason it seems that writing on the face of a will expressing the testator's intention to revoke the same, should have that effect under the second part of the statute allowing revocation by cancellation. Because the testator chooses to make his lines take the form of words, written on the face of the will seems to be no good reason for a distinction by the court in the instant case. The court decided the principal case on the strength of *In re Aker's Will, supra;* whereas they are not analogous. The testator in that case attempted to revoke his will by writing in the blank marginal space these words, "This will and codicil is revoked, Jany. 14/96. Fredk Akers." No part of the context of the will was in the slightest degree canceled or obliterated; whereas in the instant case, the writing was across the face of the will itself, expressing the testator's intention to revoke it.

CONSTITUTIONAL LAW—CHILD LABOR LAW HELD UNCONSTITUTIONAL.—The plaintiff, a manufacturing corporation, brought a suit against the defendant, Collector of Internal Revenue, to recover a tax assessed against it under the provisions of the Act of Congress of Feb. 24, 1919, imposing a 10 per cent. tax on the profits arising from the sale of products of mines, mills, workshops, factories, or manufacturing establishments which at any time during the year shall have employed children under certain prescribed ages and for periods longer than specified in the Act. The assessment against the plaintiff was paid under duress and with notice of protest and the purpose to sue to recover it back, upon the ground that the law under which it was assessed and collected was unconstitutional. The conditions required by law with respect to bringing suit, such as filing claim for refund, etc., were duly complied with by the plaintiff before bringing its suit. The defendant filed a demurrer. *Held*, demurrer overruled, and judgment for the plaintiff for the amount of the tax paid. *Bailey* v. *Drexel Furniture Co.*, 42 Sup. Ct. — (1922), affirming 276 Fed. 452.

The Supreme Court of the United States rested its decision on the ground that the tax was subversive of State sovereignty and that it was plainly not levied for revenue purposes, but to prohibit employment of children, a purely internal affair of the several States.

The original Child Labor Law passed by Congress Sept. 1, 1916, barring from interstate commerce the products of factories and other institutions employing child labor, was also declared unconstitutional. *Hammer* v. *Dagenhart*, 247 U. S. 251 (1918).